

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 3378 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

=====

ELLISBRIDGE CO. OPERATIVE BANKLTD. - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

=====

Appearance :

MR PS CHAMPANERI for Petitioner(s) : 1,

MR MR MENGDEY, AGP, for Respondent(s) : 1 - 4.

=====

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 02/02/2007

ORAL JUDGMENT

1. In the present petition, the petitioner has
challenged an order dated 29th April 1999 passed
by the Joint Registrar (Audit), Government of

Gujarat.

2. The petitioner is a Co-operative Bank. By the impugned order, the Joint Registrar in exercise of powers under section 107 of the Gujarat Cooperative Societies Act, 1961 ordered liquidation of the petitioner society and also appointed one Shri Amrut B. Patel as the Liquidation Officer. The said order came to be passed considering the accumulated losses of the petitioner society and erosion of its funds.
3. It may be noted that by an order dated 16th April 1999, Reserve Bank of India had cancelled the licence of the petitioner co-operative Bank. This order was challenged by the petitioner before this Court by filing Special Civil Application No.3214 of 1999. The said petition eventually came to be disposed of by an order dated 4th July 2001. The learned Single Judge of this Court made certain observations and permitted the petitioner to withdraw the petition for approaching the Reserve Bank of India with a proposal for revival. It is not in dispute that thereafter no order in favour of the petitioner has been passed by the Reserve Bank of India granting revival of the banking licence. The fact, therefore, remains that presently, the petitioner Cooperative Bank has no banking licence.
4. Learned advocate Shri Champaneri for the petitioner, however, submitted that even without the banking licence, the petitioner society can carry on the activities of lending money to its

own members and can thus operate as a credit co-operative society. He submitted that, however, on account of the order of liquidation, such a possibility is also taken away. He submitted that even after liquidation of a cooperative society, powers are available with the Registrar to consider reconstruction of the society. He submitted that the authorities should consider the question of reconstruction of the society at least as a credit cooperative society.

5. On the other hand, learned AGP Shri Mengdey supported the Government action.

6. Having heard the learned advocates appearing for the parties, I find that on account of cancellation of banking licence by the Reserve Bank of India, the petitioner cannot operate as a cooperative bank. However, during the pendency of this petition, the impugned order of liquidation was stayed by this Court. Learned advocate Shri Champeneri submitted that the petitioner society has through recovery proceedings been able to recover substantial amounts from out of its outstanding loans and currently has sufficient fund to carry on the activity of a credit society. These are the questions that can be considered only by the authorities at the first instance. It would, therefore, be appropriate to permit the petitioner to approach the Registrar with a request for reconstruction of the petitioner society as a credit cooperative society. If

such representation is made within four weeks from today, the same may be considered expeditiously and preferably within four months of its receipt. Until the representation is disposed of, interim relief granted by this Court shall continue.

7. With these directions, the petition is partially allowed and disposed of accordingly. Rule is made absolute to the extent with no order as to costs.

Direct service.

(Akil Kureshi, J.)

(vjn)